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12785-B
RECORDATION NO. _____ Filed 1425

12785-A
RECORDATION NO. _____ Filed 1425

12785
RECORDATION NO. _____ Filed 1425

JAN 21 1981 - 1 55 PM
BURLINGTON NORTHERN
INTERSTATE COMMERCE COMMISSION

JAN 21 1981 - 1 55 PM
INTERSTATE COMMERCE COMMISSION

JAN 21 1981 - 1 55 PM
INTERSTATE COMMERCE COMMISSION

LAW DEPARTMENT
12785-C
RECORDATION NO. _____ Filed 1425

12785-1-0214150

176 East Fifth Street
St. Paul, Minnesota 55101
Telephone (612) 298-2278
12785-F
RECORDATION NO. _____ Filed 1425

JAN 21 1981 - 1 55 PM
JAN 21 1981 - 1 55 PM
Fee \$ 50.00
INTERSTATE COMMERCE COMMISSION

JAN 21 1981 - 1 55 PM
INTERSTATE COMMERCE COMMISSION

Office of the Secretary
Interstate Commerce Commission
Washington, D.C. 20423

ICC Washington, D. C.
12785
January 20, 1981
RECORDATION NO. _____ Filed 1425

Gentlemen:

JAN 21 1981 - 1 55 PM

JAN 21 1981 - 1 55 PM

INTERSTATE COMMERCE COMMISSION
There is submitted herewith for filing with the Commission pursuant to Section 11303 of the Interstate Commerce Act two fully conformed counterparts of that certain St. Paul-Duluth Division Mortgage of the Northern Pacific Railway Company dated June 15, 1900 which ran in favor of Guaranty Trust Company Of New York as Trustee, together with amendments thereto, dated July 1, 1902, April 6, 1908, June 1, 1920, April 24, 1937, April 27, 1942, December 30, 1943, March 2, 1970 and October 14, 1976, together with two original counterparts of the Satisfaction and Release of said mortgage dated November 12, 1980.

Enclosed is a check payable to the order of the Commission for \$50.00 in payment of the recordation fee.

The names and addresses of the parties to the mortgage are as follows:

St. Paul-Duluth Division Mortgage, Northern Pacific Railway Company

Original Trustee: Guaranty Trust Company of New York
New York, New York

Successor Trustee: Morgan Guaranty Trust Company of New York
Attn: Corporate Trust Department
30 West Broadway
New York, New York 10015

Original Mortgagor: Northern Pacific Railway Company
176 East Fifth Street
St. Paul, Minnesota 55101

RECEIVED
JAN 21 1 45 PM '81
FEE OPERATION
I.C.C.

Steven Paul Road
C. Dean [Signature]

January 20, 1981

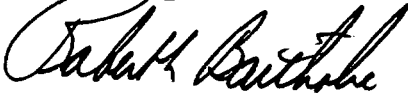
Successor Mortgagor: Burlington Northern Inc.
176 East Fifth Street
St. Paul, Minnesota 55101

General Description of the Mortgage:

All of the line of railroad branches and other property formerly belonging to the St. Paul-Duluth Railway Company (predecessor in interest and title to Northern Pacific Railway Company, predecessor in interest and title to Burlington Northern Inc.); the main line of which extend generally from the City of St. Paul in Ramsey County, Minnesota, to Lake Superior at Duluth in St. Louis County, Minnesota, a distance of 156 miles more or less, together with branches thereof as more fully described in the Granting Clauses of said mortgage. All of which have now been released from the lien of the mortgage and the mortgage fully cancelled, satisfied, and discharged.

Please return to the individual presenting these documents for recordation, Mrs. Carolyn H. Kunkel, one set of the enclosed documents, stamped and bearing the notation as provided in Section 1116.5(a) of the Commission's Regulations.

Sincerely,



Robert L. Bartholic
Assistant General Counsel

RLB/gtdl,23



BURLINGTON NORTHERN

LAW DEPARTMENT

176 East Fifth Street
St. Paul, Minnesota 55101
Telephone (612) 298-2121

No. 1-023A079
Date JAN 23 1981
Fee \$ 110.00
ICC Washington, D. C.

January 21, 1981

Mrs. Carolyn H. Kunkel
Kunkel Transportation Services, Inc.
Suite 523
425-13th Street N.W.
Washington, D.C. 20004

Dear Mrs. Kunkel:

With reference to Mr. Bartholic's telephone conversation today with Ms. Mildred Lea of the Recording Section of the Interstate Commerce Commission I am enclosing a check for an additional \$110 filing fee for the filing and recordation of the St. Paul-Duluth Division Mortgage of the Northern Pacific Railway Company dated June 15, 1900 and its supplements and Satisfaction with the Interstate Commerce Commission.

Please handle as before.

Very truly yours,

Patricia A. Jung
Administrative Secretary

Enclosure

RECEIVED
JAN 23 2 17 PM '81
I.C.C.
FEE OPERATION BR.

2785

JAN 21 1981 - 1 15 PM

INTERSTATE COMMERCE COMMISSION

St. Paul-Duluth Division Mortgage

NORTHERN PACIFIC RAILWAY
COMPANY

TO

GUARANTY TRUST COMPANY
OF NEW YORK,
Trustee.

Dated June 15th, 1900

C. G. Burdette, Walker and Centre Street, N. Y. C.

An Indenture, made this fifteenth day of June,
in the year one thousand nine hundred, between

NORTHERN PACIFIC RAILWAY COMPANY, a corporation
created by and existing under the laws of the State
of Wisconsin (hereinafter termed the "Railway Com-
pany"), party of the first part, and

GUARANTY TRUST COMPANY OF NEW YORK, a corpora-
tion created by and existing under the laws of the
State of New York (hereinafter termed the
"Trustee"), party of the second part.

WHEREAS, the Railway Company, having first complied
with all the laws of the State of Minnesota pertaining to
foreign corporations and being thereunto duly authorized
by its charter and the laws of the State of Wisconsin and
by the laws of the State of Minnesota, has duly purchased
the railroad and branches and other property hereby
conveyed or mortgaged together with certain other property
formerly belonging to the Saint Paul and Duluth Railroad
Company, by means of moneys temporarily borrowed by
the Railway Company under an agreement with the
lenders of such moneys that this mortgage or deed of
trust should be executed forthwith upon the acquisition
by the Railway Company of the railroad and branches
and other property hereby mortgaged or conveyed,
and that the bonds to be presently issued hereunder
should be executed and delivered for such moneys
temporarily advanced, and that this mortgage or deed of
trust should be a purchase money mortgage to secure the
bonds to be issued thereunder; and

WHEREAS, at a meeting of the board of directors of the Railway Company held at its office in the City of New York on the fifteenth day of June, in the year one thousand nine hundred, the draft of a mortgage or deed of trust in the form of this indenture was submitted and read, and resolutions in the following words were duly and unanimously adopted, viz.:

“Resolved, That the President and the Secretary or any Assistant Secretary of this Company be, and they are hereby, authorized and directed, forthwith upon the conveyance to this Company by the Saint Paul and Duluth Railroad Company of the railroad and branches, equipment and other railroad property and franchises of said Saint Paul and Duluth Railroad Company, to execute, acknowledge and deliver, in behalf of this Company, and under its corporate seal, to Guaranty Trust Company of New York, a corporation of the State of New York, as Trustee, a mortgage or deed of trust, to be known as the ‘St. Paul-Duluth Division Mortgage’ of this Company, substantially in the form of the draft thereof now submitted to this Board, covering all such railroad and branches, equipment and other railroad property and franchises, as in said mortgage or deed of trust described, to secure an issue of bonds of this company to be called ‘St. Paul-Duluth Division Mortgage 4 Per. Cent. Gold Bonds’, the aggregate amount of which bonds at any time outstanding shall not exceed \$20,000,000, the principal of such bonds to be payable in gold coin of the United States of America, of the present standard of weight and fineness, at the office or agency of this Company in the city of New York, on the first day of December, 1996, with interest thereon from the first day of June, 1900, at the rate of four per cent. per annum, payable in like gold coin, semi-annually, at the said office or agency on the first days of June and December in each year, both the principal and interest of said bonds to be payable without deduction for any tax or taxes imposed by the United States, or any state or municipality thereof, which this Company may be required to pay, or to retain therefrom, under any present or future law; and that such bonds shall be coupon bonds with provision for registration as to principal, and registered bonds without coupons, and shall be substantially of the form and tenor of the bonds set forth in said mortgage or deed of trust, now submitted.

“Resolved, further, that such St. Paul-Duluth Division Mortgage 4 per cent. Gold Bonds of this Company shall be

executed, issued, certified and delivered in the manner and upon the terms and conditions and for the purposes set forth in such St. Paul-Duluth Division Mortgage of this Company, now submitted; and that the President, or any Vice-President, and the Secretary, or any Assistant Secretary of this Company forthwith upon the execution of such mortgage or deed of trust shall duly execute and deliver to the Trustee for certification and the Trustee thereupon shall certify and shall deliver upon the order of the President such St. Paul-Duluth Division Mortgage 4 per cent. Gold Bonds for the aggregate principal sum of nine million two hundred and fifteen thousand dollars (\$9,215,000)."

AND WHEREAS, the bonds to be secured by this indenture are to be coupon bonds of the denomination of one thousand dollars, numbered consecutively from 1 upwards, and registered bonds of the denomination of one thousand dollars, or such multiples thereof as the Railway Company by resolution of its board of directors from time to time may prescribe, every such bond to bear a distinctive number or designation, and all such bonds, from time to time, as directed by the board of directors of the Railway Company, are to be executed in the name and on behalf of the Railway Company and under its corporate seal by the President, or any Vice-President, and the Secretary, or any Assistant-Secretary, of the Railway Company, and are to be substantially of the following tenor, to wit:

[FORM OF COUPON BOND.]

No.

\$1,000.

UNITED STATES OF AMERICA.

NORTHERN PACIFIC RAILWAY COMPANY.

ST. PAUL-DULUTH DIVISION MORTGAGE FOUR PER CENT.
GOLD BOND.

Northern Pacific Railway Company, a corporation, (hereinafter termed the "Railway Company"), for value received,

promises to pay to bearer, or, if registered, to the registered holder of this bond, One thousand dollars, gold coin of the United States of America of the present standard of weight and fineness, on the first day of December, in the year 1996, at the office or agency of the Railway Company in the City of New York, and to pay interest thereon from the first day of June, 1900, at the rate of four per cent. per annum, such interest to be payable at said office or agency in like gold coin, semi-annually on the first days of June and December in each year, but only upon presentation and surrender as they severally mature of the coupons therefor annexed and to be annexed hereto. Upon presentation of this bond on or after June first, 1950, the Railway Company will attach thereto sheets of coupons representing the interest installments to become due after that date, proper endorsement thereof being made on this bond.

Both the principal and interest of this bond are payable without deduction for any tax or taxes of the United States, or of any state, county or municipality therein which the Railway Company may be required to pay or to retain therefrom under any present or future law.

This bond is one of a duly authorized series of coupon bonds and registered bonds of the Railway Company issued and to be issued to an amount not exceeding twenty million dollars in the aggregate at any one time outstanding, under and in pursuance of and all equally secured by a mortgage or deed of trust dated June 15th, 1900, duly executed by the Railway Company to the Guaranty Trust Company of New York, as trustee, of the property and franchises mentioned in said mortgage or deed of trust, to which reference is hereby made for a description of the property and franchises mortgaged and the nature and extent of the security and the rights of the holders of said bonds under the same and the terms and conditions upon which said bonds are issued and secured.

This bond may be registered as to principal in the owner's name on the books of the Railway Company at its office or agency in the City of New York, such registry being noted on the bond by the Company's Transfer Agent, after which no transfer shall be valid unless made on the Company's books by the registered owner in person or by attorney and similarly noted on the bond; but the same may be discharged from registry by being transferred to bearer, after which transferability by delivery shall be restored; but it may again from time to time be registered or transferred to bearer as before; such registration, however, shall not affect the negotiability of the coupons by delivery merely. This bond is also exchangeable for a registered bond without coupons, as provided in said mortgage or deed of trust.

This bond shall not become obligatory for any purpose until it shall have been authenticated by the certificate hereon endorsed of the trustee under said mortgage or deed of trust.

In witness whereof, Northern Pacific Railway Company has caused these presents to be signed by its President or one of its Vice-Presidents, and its corporate seal to be hereunto affixed and to be attested by its Secretary or Assistant Secretary, and coupons for said interest maturing up to June first, 1950, authenticated by the engraved fac-simile of the signature of its Treasurer, to be attached hereto, this 15th day of June, 1900.

NORTHERN PACIFIC RAILWAY COMPANY,

by

President.

Attest:

Secretary.

(FORM OF REGISTERED BOND WITHOUT COUPONS).

No.

\$

UNITED STATES OF AMERICA.

NORTHERN PACIFIC RAILWAY COMPANY.

REGISTERED ST. PAUL-DULUTH DIVISION MORTGAGE 4%
GOLD BOND.

Northern Pacific Railway Company, a corporation (hereinafter termed the "Railway Company") for value received, promises to pay to or registered assigns, the sum of _____ dollars, gold coin of the United States of America of the present standard of weight and fineness, on the first day of December in the year 1996, at the office or agency of the Railway Company in the City of New York, and to pay interest thereon from the first day of June or December next preceding the date hereof at the rate of four per cent. per annum, such interest to be payable to the registered holder hereof at said office or agency in like gold coin semi-annually on the first days of June and December in each year. Both the principal and interest of this bond are payable without deduction for any tax or taxes of the United States or of any state, county or municipality therein, which the Railway Company may be required to pay or to retain therefrom under any present or future law.

This bond is one of a duly authorized series of coupon bonds and registered bonds of the Railway Company issued and to be issued to an amount not exceeding twenty million dollars in the aggregate at any one time outstanding, under and in pursuance of and all equally secured by a mortgage or deed of trust dated June 15th, 1900, duly executed by the Railway Company to the Guaranty Trust Company of New York, as trustee, of the property and franchises mentioned

in said mortgage or deed of trust, to which reference is hereby made for a description of the property and franchises mortgaged and the nature and extent of the security and the rights of the holders of said bonds under the same and the terms and conditions upon which said bonds are issued and secured.

This bond is transferable by the registered holder thereof in person or by attorney duly authorized on the books of the Railway Company at its office or agency in the City of New York, upon surrender and cancellation of this bond; and thereupon a new registered bond will be issued to the transferee in exchange therefor, as provided in said mortgage or deed of trust and on payment of the charge therein provided for.

This bond shall not become obligatory for any purpose until it shall have been authenticated by the certificate hereon endorsed of the trustee under said mortgage or deed of trust.

In witness whereof, Northern Pacific Railway Company has caused these presents to be signed by its President or one of its Vice-Presidents and its corporate seal to be hereunto affixed and to be attested by its Secretary or Assistant Secretary, this day of

NORTHERN PACIFIC RAILWAY COMPANY,

by

President.

Attest:

Secretary.

AND WHEREAS, there are to be attached to the said coupon bonds at the time of the issue thereof coupons representing the semi-annual installments of interest which shall become due thereon to and including the first day of December, 1950, each of which coupons is to be substantially of the following tenor, viz.:

[FORM OF INTEREST COUPON OF WHICH THE FIRST IS TO BE
PAYABLE DECEMBER 1ST, 1900.]

\$20.

\$20.

On the first day of _____ Northern Pacific
Railway Company will pay to bearer at its office or agency
in the City of New York twenty dollars, gold coin, without
any deduction for taxes, being six months' interest then due
on its St. Paul-Duluth Division Mortgage 4% Gold Bond
No. _____

Treasurer.

AND WHEREAS, there is to be endorsed on each of said
coupon bonds and registered bonds without coupons a
certificate of the Trustee that it is one of the bonds issued
hereunder, and no bond shall be secured by this indenture
or be obligatory for any purpose unless such certificate
shall have been executed by the Trustee, such Trustee's
certificate to be substantially of the following tenor, viz. :

[FORM OF TRUSTEE'S CERTIFICATE.]

This bond is one of the series of St. Paul-Duluth Division
Mortgage 4% Gold Bonds described in the within-mentioned
mortgage or deed of trust executed by the Northern Pacific
Railway Company to the undersigned.

GUARANTY TRUST COMPANY OF NEW YORK,

Trustee,

by _____

President.

AND WHEREAS, each of the coupons to be attached to such
coupon bonds is to be authenticated by the engraved fac-
simile of the signature of the present Treasurer or of any
future Treasurer of the Railway Company, and the Railway
Company may adopt and use for that purpose the engraved
fac-simile of the signature of any person who shall have

been such Treasurer, notwithstanding the fact that he may have ceased to be such Treasurer at the time when such bonds shall be actually certified and delivered and such coupons shall be attached to the bonds; and

WHEREAS, this indenture is of the tenor of the draft thereof submitted to and approved by the board of directors of the Railway Company at their said meeting; and in pursuance of due authority and of all and every legal power and authority in it vested the Railway Company has executed this indenture and purposes to make, execute and, from time to time, to issue the bonds secured hereby; and

WHEREAS, the Railway Company has acquired and now owns the railroad and branches hereby mortgaged or conveyed, or so intended to be, free and clear from any mortgage, lien or incumbrance, except the mortgages and liens hereinafter mentioned and described securing certain outstanding underlying bonds to the aggregate amount of \$5,283,000, and this indenture is to be a purchase-money mortgage and lien on said railroad and branches as hereinafter set forth superior and paramount to all other liens, charges and incumbrances thereon except only said mortgages and liens securing said outstanding underlying bonds to the aggregate amount of \$5,283,000;

Now, therefore, this Indenture witnesseth:

That in order to secure the payment of the principal and interest of all such bonds at any time issued and outstanding under this indenture, according to their tenor and effect, and the performance of all the covenants and conditions herein contained, and to declare the terms and conditions upon which such bonds are issued and received, and in consideration of the premises and of the purchase and acceptance of such bonds by the holders thereof, and of the sum of one dollar to it duly paid by the Trustee at or before the

ensealing and delivery of these presents, the receipt whereof is hereby acknowledged,

THE RAILWAY COMPANY, party of the first part hereto, has executed and delivered these presents, and has granted, bargained, sold, aliened, remised, released, conveyed, confirmed, assigned, transferred and set over, and by these presents does grant, bargain, sell, alien, remise, release, convey, confirm, assign, transfer and set over, unto the TRUSTEE, party of the second part, its successors and assigns forever :

All and singular the railway and branches and other railroad property, equipments and franchises heretofore belonging to the Saint Paul and Duluth Railroad Company, the same being more particularly described as follows ;

A main line extending from the City of St. Paul in Ramsey county, Minnesota, to Lake Superior at Duluth in St. Louis county, Minnesota, a distance of one hundred and fifty-six miles, more or less ;

A branch railroad known as the "Knife Falls Branch," connecting with said main line at or near the junction of said main line with the railroad of the Northern Pacific Railway Company in Carlton county, Minnesota, and extending thence to a point at or near Cloquet in said county, a distance of seven miles more or less ;

A branch railroad known as the "Quarry Branch," connecting with the said main line at or near Miller, in Pine county, Minnesota, and extending thence to the sandstone quarries at or near Banning in said county, a distance of five miles, more or less ;

A branch railroad extending from a junction with the said main line at White Bear in Ramsey county, Minnesota, to Stillwater in Washington county, Minnesota, a distance of thirteen and seven-tenths miles, more or less ;

A branch railroad extending from a point of junction with the said main line at Wyoming in Chisago county,

Minnesota, to Taylor's Falls in the same county, a distance of twenty-one miles, more or less ;

A branch railroad extending from a point of junction with the said main line at Rush City in said Chisago county to the St. Croix river in said county, and across the St. Croix river into Wisconsin, terminating at Grantsburg in the county of Burnett in said last-named state, in all a distance of seventeen miles, more or less ;

A branch railroad extending from a junction with the said main line at or near the town of Thompson, in said Carlton county, to a connection with said main line near the village of Oneota, in the county of St. Louis, state of Minnesota, and thence to the St. Louis river and West Superior, in the state of Wisconsin, including the bridge over the St. Louis river, a distance of eighteen miles, more or less ;

All the right, title and interest now belonging to the Railway Company, formerly belonging to said Saint Paul and Duluth Railroad Company, in, to and under a certain indenture of lease dated July 5, 1883, from the Minneapolis and St. Louis Railroad Company to the Saint Paul and Duluth Railroad Company, and all rights, privileges, leasehold estate, title and interest held or possessed by the lessee under said lease, and by the Railway Company as assignee of the lessee in and to the line of railway and other property described in said lease, the leased line being a branch railroad extending from a connection with said main line at or near White Bear, in the county of Ramsey, state of Minnesota, to the city of Minneapolis ;

And all other railways, and all right, title or interest in any railway formerly belonging to the Saint Paul and Duluth Railroad Company, and conveyed by that company to the Railway Company ;

Including all terminals, depot and yard properties, all rights of way and lands used or acquired for use in con-

nection with the said railways and branches or any of them ; all structures, improvements and fixtures connected with, or pertaining to, or part of, said railways and branches or any of them, or acquired for use in connection therewith ; all locomotives, cars, equipment, tools, machinery and implements formerly belonging to said Saint Paul and Duluth Railroad Company and acquired by the Railway Company by purchase from said Company ; and, also, all appendages, appurtenances, leases, leasehold rights, contracts, contract rights, privileges, easements, immunities and franchises in any manner connected with or having to do with or pertaining to the said railways, branches and terminals, depot and yard property, locomotives, cars and equipment hereby conveyed and mortgaged or any part thereof.

Also, all branches, extensions, double track, terminals and other properties which from time to time in the manner hereinafter provided shall be described in the certificates to be furnished by the Railway Company to the Trustee when the Railway Company shall call for the certification and delivery of any of the \$502,000 of bonds reserved under Section 4 of Article One of this indenture or any of the \$5,000,000 of bonds reserved under Section 5 of Article One of this indenture, or for the payment of the proceeds of any of such bonds.

Including all the roadbed, superstructures, rights of way, rails, tracks, side-tracks, bridges, viaducts, buildings, depots, stations, engine-houses, machine shops and other structures, turntables, water stations, fences and other fixtures, gravel beds, betterments, additions and improvements, however held and wherever situate, now owned or which hereafter may be acquired by the Railway Company, and constituting part of the railways and branches, or any of them, terminals or other property, now or hereafter, subject to the lien of this indenture or acquired for use in connection therewith or for

the enjoyment or operation thereof, and all appendages, appurtenances, rights, privileges, easements, immunities and franchises now or hereafter connected with or pertaining to any of said railways, branches or other property or any part thereof or the use or enjoyment thereof ;

Also, any and all the rents, issues, profits, tolls, income and revenue of any of the railways, branches and other properties now or at any time hereafter subject to the lien of this indenture ;

Also, all the right, title and interest of the Railway Company in or to 1,500 shares, of the par value of \$100 each, of the capital stock of The Duluth Union Depot and Transfer Company, purchased by the Railway Company from said Saint Paul and Duluth Railroad Company, of which shares 1,250 are pledged with Central Trust Company of New York, as trustee, to secure bonds issued under certain mortgages of the Saint Paul and Duluth Railroad Company ; and the Railway Company agrees to deliver to the Trustee the certificates for said 1,500 shares, duly endorsed for transfer to the Trustee, when and as the certificates for such shares shall be received by the Railway Company.

And, also, all other property which from time to time hereafter by delivery or by writing of any kind for the purposes hereof may be conveyed, assigned, or mortgaged, or delivered and pledged, or by writing of any kind assigned or transferred by the Railway Company, or by any one in behalf of the Railway Company with its written consent or approval, to the Trustee hereunder as and for additional security for the bonds issued and to be issued hereunder, and the Trustee shall receive, hold and apply any and all such additional property subject to the trusts of this indenture ; but such conveyance, assignment, transfer or delivery pursuant to the provisions of this clause as and for additional security may be made subject to any reservations, limitations, conditions and provisions which

shall be set forth in an instrument in writing then to be executed by the Railway Company and by the Trustee respecting the use, management and disposition of such additional property and the proceeds thereof ;

But it is hereby expressly declared that nothing in this indenture contained shall be construed to limit the right or power of the Railway Company (such right and power being hereby expressly reserved) by the use of its credit, or in any manner, except by use of the bonds or proceeds of bonds reserved under Sections 4 and 5 of Article One of this indenture, to construct or acquire other lines of railway, branches or extensions or other properties or interests therein, free from the lien of this indenture :

To have and to hold the said railways, branches and other properties and premises hereby conveyed or assigned or intended to be conveyed or assigned unto the Trustee, its successors or assigns forever :

SUBJECT, HOWEVER, as to certain portions of the railroad, branches and other property now owned by the Railway Company and hereby mortgaged or conveyed to the following mortgages and liens now outstanding so far as they attach thereto, viz.:

(1) A mortgage dated July 1st, 1881, executed by the Saint Paul and Duluth Railroad Company to Central Trust Company of New York, as trustee, to secure an issue of bonds of said Saint Paul and Duluth Railroad Company, of which there are now outstanding bonds of the aggregate par value of One million dollars, bearing interest at the rate of five per cent. per annum ;

(2) A mortgage dated August 3d, 1887, executed by the Saint Paul and Duluth Railroad Company to Central Trust Company of New York, as trustee, to secure an issue of bonds of said Saint Paul and Duluth Railroad Company, of

which there are now outstanding bonds of the aggregate par value of Two million dollars, bearing interest at the rate of five per cent. per annum ;

(3) A mortgage dated June 1st, 1898, executed by the Saint Paul and Duluth Railroad Company to Guaranty Trust Company of New York, as trustee, to secure an issue of bonds of said Saint Paul and Duluth Railroad Company, of which there are now outstanding bonds of the aggregate par value of One million dollars, bearing interest at the rate of four per cent. per annum ;

(4) A mortgage dated September 1st, 1886, executed by the Duluth Short Line Railway Company to Central Trust Company of New York, as trustee, to secure an issue of bonds of said Duluth Short Line Railway Company, of which there are now outstanding bonds of the aggregate par value of Five hundred thousand dollars, bearing interest at the rate of five per cent. per annum ;

(5) A mortgage dated November 27th, 1883, executed by the Taylor's Falls and Lake Superior Railroad Company to Central Trust Company of New York, as trustee, to secure an issue of bonds of said Taylor's Falls and Lake Superior Railroad Company, of which there are now outstanding bonds of the aggregate par value of two hundred and ten thousand dollars, bearing interest at the rate of six per cent. per annum ;

(6) A mortgage dated November 1st, 1870, executed by the Stillwater and St. Paul Railroad Company to J. H. Dingee and S. Henry Norris, as trustees, to secure an issue of bonds of said Stillwater and St. Paul Railroad Company, of which there are now outstanding bonds of the aggregate par value of Two hundred and nine thousand five hundred dollars, bearing interest at the rate of seven per cent. per annum ;

(7) Car trust obligations now outstanding to an aggregate amount not exceeding Three hundred and sixty-two thou-

sand nine hundred and twenty $\frac{95}{100}$ dollars, secured by a lien or charge upon certain of the rolling stock and equipment hereby conveyed and mortgaged ;

BUT IN TRUST, NEVERTHELESS, for the equal and proportionate benefit and security of all present and future holders of the bonds and interest obligations issued and to be issued under and secured by this indenture, and for the enforcement of the payment of said bonds and interest obligations, when payable, and the performance of, and compliance with, the covenants and conditions of this indenture ; without preference, priority or distinction as to lien or otherwise of any one bond over any other bond by reason of priority in the issue or negotiation thereof, so that each and every bond issued and to be issued hereunder, shall have the same right, lien and privilege under and by this indenture, and that the principal and interest of every such bond shall, subject to the terms hereof, be equally and proportionately secured hereby, as if all had been made, executed, delivered and negotiated simultaneously with the execution and delivery of this indenture ; it being intended that the lien and security of this indenture shall take effect from the day of the date hereof, without regard to the date of actual issue, sale or disposition of said bonds, as though, upon such day, all of said bonds were actually issued, sold and delivered to purchasers for value ;

AND IT IS HEREBY COVENANTED that all such bonds with the coupons for interest thereon are to be issued, certified and delivered, and that the mortgaged premises are to be held by the Trustee subject to the further covenants, conditions, uses and trusts hereinafter set forth ; and it is covenanted between the parties hereto as follows, viz. :

ARTICLE ONE.

SEC. 1. All bonds to be secured hereby from time to time shall be executed and delivered by the Railway Company to the Trustee for certification, and thereupon the Trustee shall certify and deliver the same as provided in this Article, and not otherwise.

Any of such bonds, at the option of the Railway Company, from time to time, may be executed, certified and delivered originally either as coupon bonds or as registered bonds. The amount of bonds hereby secured which may be executed by the Railway Company and which may be certified by the Trustee is limited so that there shall never at any time be outstanding bonds hereby secured for an aggregate principal sum exceeding \$20,000,000.

Before certifying or delivering any coupon bond hereby secured the Trustee shall detach and shall cancel all coupons thereof then matured; and the Trustee shall not certify or deliver any registered bond bearing interest from any date more than six months prior to such certification and delivery.

Only such of said bonds as shall bear thereon a certificate substantially in the form hereinbefore recited, duly executed by the Trustee, shall be secured by this indenture or shall be entitled to any lien or benefit hereunder. Every such certificate of the Trustee upon any bond executed by the Railway Company shall be conclusive and the only evidence that the bond so certified was duly issued hereunder, and is entitled to the benefit of the trust hereby created.

On request of the Railway Company bonds within the limitations hereinafter prescribed shall be certified and delivered hereunder in advance of registration or record of this indenture; but the Railway Company with all convenient speed shall cause this indenture to be recorded as a mortgage upon railways.

The internal revenue stamps required by law are to be affixed to this indenture from time to time when and as the bonds hereby secured shall be issued.

SEC. 2. Of the bonds authorized to be issued under and secured by this indenture, bonds for the aggregate principal sum of \$9,215,000 shall be certified by the Trustee and delivered to the Railway Company or upon the order of its President immediately upon the execution of this indenture or as soon thereafter as may be.

SEC. 3. Five million two hundred and eighty-three thousand dollars (\$5,283,000) par value of the bonds authorized to be issued under and secured by this indenture shall be reserved to be executed, certified and delivered only for the purpose of providing for the acquisition by purchase or exchange or the retirement of a like par amount of the hereinbefore described bonds and car trust obligations of the aggregate par value of \$5,283,000 now outstanding, secured by mortgages or liens prior to this indenture upon the mortgaged properties or portions thereof (all of which outstanding bonds and obligations are hereinafter termed "underlying bonds").

From time to time, when authorized by resolution of the board of directors or of the executive committee of the board of directors of the Railway Company, the \$5,283,000 of bonds reserved under this Section shall be issued, certified and delivered as follows and not otherwise, namely:

(a) Whenever the Railway Company shall tender or shall cause to be tendered to the Trustee any of such underlying bonds with all unmatured interest obligations thereunto belonging, the Trustee shall receive the same and in exchange therefor shall certify and shall deliver to the Railway Company, or upon its order, an amount of the bonds reserved under this Section of a par value equal to the par value of the underlying bonds so received by the Trustee.

(b) If, at the time of the maturity of any of such underlying bonds the holder thereof shall decline to sell or to deliver the same at par and accrued interest, but shall require the payment and cancellation thereof, then the Trustee, upon payment and cancellation of any of such bonds, shall certify and deliver to the Railway Company, or upon its order, a like amount at par of the bonds reserved under this Section as though the bonds so paid and canceled had been purchased by the Railway Company and by it delivered to the Trustee as provided in the foregoing Clause (a) of this Section; but it is the intention hereof that all the lien, rights and security of the holders of any of such bonds which shall be paid and canceled, as well as all lien and rights under any bonds which shall be delivered to the Trustee without payment and cancellation, shall continue in force and shall vest in the Trustee as additional security for the payment of the bonds hereby secured.

Every underlying bond received by the Trustee in exchange under the provisions of this Article shall be held by the Trustee as purchaser without extinguishment or impairment of lien as additional security for the payment of the bonds hereby secured; but so long as the Railway Company shall not be in default under this indenture it shall not be required to pay interest on any of such underlying bonds held by the Trustee, and whenever all the underlying bonds of any issue shall have been paid, retired or received in exchange hereunder, the Trustee upon request of the Railway Company may cancel and surrender such underlying bonds by it received and may take such such steps as it may deem needful to cause the mortgage securing such issue of underlying bonds to be discharged of record, *provided* that upon such cancellation and surrender this indenture shall become a first and paramount lien upon the property covered by the mortgage securing such canceled and surrendered bonds.

A certificate signed by the President, or a Vice-President, and by the Treasurer or Assistant Treasurer of the Railway Company, may be received by the Trustee as conclusive evidence of any facts pertaining to the right to execute, certify and deliver bonds under this Section (3).

SEC. 4. Five hundred and two thousand dollars (\$502,000) par value of the bonds authorized to be issued under and secured by this indenture, and not more, shall be reserved to be executed, certified and delivered only for the purpose of reducing grades and making changes of the lines of the railways and branches then subject to the lien of this indenture, and for the acquisition or construction of other betterments or improvements of any of the railways, branches or terminals then subject to the lien of this indenture, and for the acquisition of new real estate or other additions upon which this indenture shall become a first lien; but the bonds reserved under this Section shall be certified and delivered by the Trustee only as follows, to wit:

Before certifying and delivering bonds under this Section there shall be delivered to the Trustee a copy of a resolution of the board of directors or the executive committee of the Railway Company, certified by its Secretary or Assistant Secretary, calling for the certification and delivery of such bonds, and also a certificate signed by the President, or a Vice-President, and by the Chief Engineer of the Railway Company, certifying:

(a) That expenditures have been made since the date of this indenture for any one or more of the purposes for which such bonds are reserved under this Section, indicating the particular property acquired or work done and the sums expended for the acquisition or construction of such property or the performance of such work;

(b) That such expenditures were not in excess of the fair value of the property acquired or constructed or of such

work done and that no part of such expenditures was charged or properly chargeable to the cost of maintenance or repair of the mortgaged premises; and

(c) That no part of such expenditures was included in any previous certificate furnished hereunder, and that no bonds or proceeds of bonds or other moneys were received in respect thereof under this indenture.

Every such certificate furnished under this Section shall be accompanied by such instruments and conveyances as may be necessary to vest in the Trustee any new property so acquired in respect of which bonds are applied for, and also the written opinion of counsel for the Railway Company to the effect that such property is free from any lien or incumbrance prior to this indenture and that such instruments and conveyances are sufficient to subject the same to the lien and operation of this indenture, or that no instrument or conveyance is necessary for that purpose.

Thereupon the Trustee shall certify and shall deliver to the Railway Company, or upon its order, from the \$502,000 par value of bonds reserved under this Section, an amount at par equal to the expenditures so certified; but inasmuch as this mortgage is a lien only on an undivided one-half interest in certain terminal property of the Railway Company in the County of St. Louis, Minnesota, the foregoing provision is subject to the limitation that whenever expenditures shall be certified hereunder to the Trustee on account of betterments or improvements of any property in St. Louis County, Minnesota, the certificate to be furnished as aforesaid shall be accompanied by the written opinion of counsel of the Railway Company to the effect, either that the entire interest in such property is subject to the lien of this indenture, or that a half interest is subject thereto; and, in case such opinion shall be that only a half interest is subject to the lien hereof,

the Trustee shall certify and deliver under this Section bonds to the amount of one-half only of such certified expenditures for betterments or improvements of such property.

Such resolutions, certificates and opinion of counsel shall be full authority and protection to the Trustee for its certification of bonds under the foregoing provisions of this Section.

SEC. 5. The remaining five million dollars (\$5,000,000) par value of the bonds authorized to be issued under and secured by this indenture shall be reserved to be executed, certified and delivered only for the construction or acquisition of additional branch lines or extensions, upon which this indenture shall become a first and paramount lien, connecting with the lines of railway then subject to the lien of this indenture, and additional terminal properties, upon which this indenture shall be a first and paramount lien, for use in connection with the said lines of railway either at St. Paul, Minneapolis, or Duluth, in the state of Minnesota, or at West Superior, in the state of Wisconsin and for the construction of second tracks upon any of the lines of railway subject to this indenture; but the bonds reserved under this Section shall be certified and delivered by the Trustee only as follows, to wit:

Before certifying and delivering bonds under this Section there shall be delivered to the Trustee a copy of a resolution of the board of directors of the Railway Company, certified by its Secretary, or Assistant Secretary, calling for the certification and delivery of such bonds, and also a certificate signed by the President, or Vice-President, and by the Chief Engineer of the Railway Company, setting forth:

(a) That expenditures have been made since the date of the execution of this indenture for any one or more of the purposes for which such bonds are reserved under this Section, indicating the particular branch lines or extensions or terminal properties constructed or acquired and the

second-tracks constructed and the sums expended for each and every such purpose ; and .

(b) That such expenditures were not in excess of the fair value of such branch lines or extensions or terminal properties constructed or purchased or of such second-tracks constructed, and that no portion of such expenditures was included in any previous certificate furnished hereunder and that no bonds or proceeds of bonds or other moneys were previously received in respect thereof under this indenture.

Every such certificate furnished under this Section shall be accompanied by such instruments and conveyances as may be necessary to vest in the Trustee, free from any prior lien or incumbrance, all such branches, extensions, terminals or other new property so constructed or acquired in respect of which bonds or the proceeds of bonds are applied for, and also the written opinion of counsel for the Railway Company to the effect that such branches, extensions, terminals or other new property are free from any lien or incumbrance prior to this indenture (except undetermined charges incidental to construction), and that such instruments and conveyances are sufficient to subject the same to the lien and operation of this indenture, or that that no instrument or conveyance is necessary for that purpose.

Thereupon the Trustee shall certify and deliver to the Railway Company from the \$5,000,000 par value of bonds reserved under this Section an amount equal at par to the expenditures so certified for the purposes aforesaid.

At any time, when authorized by resolution of the board of directors of the Railway Company, the Railway Company may sell at such price and upon such terms as shall be authorized by such resolution, and the Trustee shall certify and deliver, any of the \$5,000,000 of bonds reserved under this Section, provided that in exchange for such bonds the Railway Company shall deposit or cause to be deposited with the

Trustee the net proceeds of the sale of such bonds, as the same shall be certified to the Trustee in writing by the President or a Vice-President, and the Treasurer or Assistant Treasurer of the Railway Company. Thereupon the Trustee shall hold such net proceeds hereunder in lieu of such bonds, and whenever, under the foregoing provisions of this Section, the Railway Company would be entitled to the certification and delivery of any of such reserved bonds on account of expenditures made for any of the purposes specified in this Section, the Trustee upon delivery to it of a certified copy of a resolution of the board of directors or of the executive committee of the Railway Company calling therefor, together with such certificate of expenditures and such instruments or conveyances vesting in the Trustee the new property acquired and also such opinion of counsel, the Trustee shall pay to the Railway Company out of any such net proceeds then held by the Trustee hereunder a sum equal to the certified net proceeds of an amount of such bonds of a par value equal to such certified expenditures.

Such resolutions, certificates and opinion of counsel shall be full authority and protection to the Trustee for its certification of bonds or the payment of the proceeds of bonds under the foregoing provisions of this Section.

SEC. 6. Whenever any coupon bond or bonds, issued under and secured by this indenture, together with all unmatured coupons thereto belonging, shall be surrendered for exchange for registered bonds without coupons, the Railway Company shall execute, and the Trustee shall certify, and in exchange for such coupon bond or bonds shall deliver registered bonds, or one registered bond, without coupons, for the like aggregate principal sum. Such registered bonds shall bear interest at the same rate as the surrendered coupon bonds, and from the date of the last-matured coupon thereof. In every case

of such exchange the Trustee forthwith shall cancel the surrendered bond or bonds and coupons and shall deliver the same to the Railway Company.

Whenever any registered bond without coupons shall be surrendered, transferred and canceled, the Railway Company shall issue and the Trustee shall certify and deliver to the transferee, registered bonds, or one registered bond, without coupons, for a like aggregate principal sum.

For any exchange of coupon bonds for registered bonds, and for any transfer of registered bonds without coupons, the Railway Company, at its option, may require the payment of a sum sufficient to reimburse it for any stamp tax or other governmental charge required to be paid and of the further sum of one dollar for each new registered bond issued upon such exchange or transfer.

SEC. 7. In case any coupon bond issued hereunder with the coupons thereto appertaining, or any registered bond without coupons, shall become mutilated or be destroyed, the Railway Company, in its discretion, may execute, and thereupon the Trustee shall certify and deliver, a new bond of like tenor and date (including coupons in case of a coupon bond) bearing the same serial number, in exchange and substitution for; and upon cancellation of, the mutilated coupon bond and its coupons, or the mutilated registered bond, or in lieu of and substitution for the coupon bond and its coupons or the registered bond so destroyed, upon receipt of satisfactory evidence of the destruction of such coupon bond and its coupons, or of such registered bond, and upon receipt also of satisfactory indemnity.

SEC. 8. Until the bonds to be issued under and secured by this indenture can be engraved and printed the Railway Company may execute, and the Trustee upon its request shall certify and deliver, in lieu of such engraved bonds and subject to the same provisions, limitations and conditions, temporary registered bonds of any denomination, substan-

tially of the tenor of the registered bonds to be issued as hereinbefore provided. Upon surrender of such temporary bonds for exchange the Railway Company shall issue, and the Trustee upon cancellation of such surrendered bonds shall certify and deliver, in exchange therefor, engraved coupon bonds or registered bonds of the denominations hereinbefore provided for to the amount of the temporary bonds surrendered; and until so exchanged the temporary bonds shall be entitled to the same security as the engraved bonds issued hereunder.

SEC. 9. Nothing in this Article contained, or in any other Article of this indenture, or in the bonds issued hereunder, expressed or implied, is intended, or shall be construed, to give to any person or corporation other than the parties hereto and the holders of bonds issued under and secured by this indenture, any legal or equitable right, remedy or claim under or in respect of this indenture, or under any covenant, condition or provision herein contained; all its covenants, conditions and provisions being intended to be, and being, for the sole and exclusive benefit of the parties hereto, and of the holders of the bonds hereby secured.

ARTICLE TWO.

THE RAILWAY COMPANY COVENANTS AS FOLLOWS :

SEC. 1. Duly and punctually it will pay the principal and interest of every bond issued and secured hereunder at the dates and the place, and in the manner mentioned in such bonds, or in the coupons thereto belonging, according to the true intent and meaning thereof, without deduction from either principal or interest for any tax or taxes imposed by the United States, or any state or county or municipality thereof, which the Railway Company may be required to pay or to retain therefrom, under or by reason

of any present or future law. The interest on the coupon bonds shall be payable only upon presentation and surrender of the several coupons for such interest as they respectively mature, and when paid such coupons shall forthwith be canceled. The interest on the registered bonds without coupons shall be payable only to the registered holders thereof.

Upon presentation of any of such coupon bonds at its office or agency in the City of New York on or after June 1, 1950, the Railway Company will cause to be attached to such bonds, without expense to the holders, sheets of coupons representing the interest installments to become due after that date on such bonds, proper endorsement being made on the respective bonds that such new coupon sheets have been attached thereto.

SEC. 2. All lines of railway and other property of every kind, in respect of the acquisition or construction whereof bonds under this mortgage hereafter shall be certified and issued as hereinbefore provided, immediately upon the acquisition thereof by the Railway Company, and without any further conveyance or assignment, shall become subject to the lien of this mortgage as fully and completely as though now owned by the Railway Company, and specifically embraced in the granting clauses hereof; but at any and all times the Railway Company will execute and deliver any and all such further assurances or conveyances thereof as the Trustee may reasonably direct or require, for the purpose of expressly and specifically subjecting the same to the lien of this indenture; and it will also do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered all and every such further acts, deeds, conveyances and transfers and assurances in the law, for the better assuring, conveying and confirming unto the Trustee all and singular the hereditaments and premises, estates and property hereby conveyed, or intended so to be, or which

the Railway Company may hereafter become bound to convey to the Trustee, as the Trustee shall reasonably require.

SEC. 3. The Railway Company, at an office or agency to be maintained by it in the City of New York, will keep a register or registers for the registration and transfer of bonds issued hereunder, in which it will register, subject to such reasonable regulations as it may prescribe, all bonds without coupons, and, upon presentation thereof for such purpose, any coupon bonds issued hereunder; and such register or registers at all reasonable times shall be open to the inspection of the Trustee.

Any such registered coupon bond may be transferred upon such register by the registered holder thereof, or by his attorney duly authorized, by an instrument in writing in a form approved by the Railway Company. The registered holder of any such registered coupon bond also shall have the right to cause the same to be registered as payable to bearer, in which case transferability by delivery shall be restored, and thereafter the principal of such bond when due shall be payable to the person presenting the bond; but any such coupon bond registered as payable to bearer may be registered again in the name of the holder with the same effect as a first registration thereof. Successive registrations and transfers as aforesaid may be made from time to time as desired; and each registration of a coupon bond shall be noted by the bond registrar on the bond.

Registration of any coupon bond, however, shall not restrain the negotiability of any coupon thereto belonging, but every such coupon shall continue to pass by delivery merely, and shall remain payable to bearer.

Any registered bond or bonds without coupons may be transferred upon such register by the registered holder thereof or by his attorney, duly authorized by an instrument in writing in a form approved by the Railway Com-

pany, and upon the surrender of such bond or bonds and the payment of the charge for such transfer, whereupon new registered bonds, or one new registered bond, for an equal amount, shall be issued to the transferee or transferees, as provided in Section 6 of Article One hereof.

SEC. 4. The Railway Company will well and truly pay and discharge, or will acquire and pledge with the Trustee hereunder on or before their respective dates of maturity, all said underlying bonds secured by prior mortgages and liens, and it will not issue, or permit or suffer to be issued, any further bonds or securities under any of said prior mortgages or liens; and duly, punctually and regularly it will pay or cause to be paid the interest on all such underlying bonds and securities.

SEC. 5. The Railway Company will not voluntarily create or suffer to be created any lien or charge, which would be prior to the lien of these presents, upon the mortgaged premises, or any part thereof, or upon the income thereof; and within six months after the same shall accrue, it will pay, or will cause to be discharged, or will make adequate provision to satisfy or discharge, all lawful claims and demands of mechanics, laborers and others, which, if unpaid, might by law be given precedence to this indenture as a lien or charge upon the mortgaged premises or any part thereof, or upon the income thereof; and from time to time it will pay and discharge all taxes, assessments, and governmental charges (the lien whereof would be prior hereto), lawfully imposed upon the mortgaged property, or any part thereof, or upon the income or profits thereof, and also all taxes, assessments and governmental charges lawfully imposed upon the lien or interest hereunder of the Trustee or of the holders of the bonds hereby secured, so that the lien and priority of this mortgage shall be fully preserved without expense to the Trustee or to the bondholders; but

the Railway Company shall not be required by the provisions of this Section to pay any such lien, claim, or demand, so long as the Railway Company in good faith shall contest the validity thereof.

SEC. 6. The Railway Company will not issue, negotiate, sell or dispose of any bonds hereby secured, in any manner other than in accordance with the provisions of this indenture, and the agreements in that behalf herein contained, and in issuing, selling, negotiating or otherwise disposing of such bonds, from time to time, it will well and truly apply, or cause to be applied, the same or the proceeds thereof, to and for the purposes herein prescribed, and to and for no other or different purpose.

SEC. 7. The railway cars, locomotives and tenders subject to this indenture at the date of the execution thereof are marked or painted with the name or initials of the St. Paul and Duluth Railroad Company. The Railway Company covenants that whenever such equipment shall be re-marked or re-painted with the name, mark or initials of the Railway Company, the Railway Company will plainly paint or mark thereon, in addition to the usual and distinctive mark of the Railway Company, the letter D, so as to distinguish said equipment from the other equipment of the Railway Company, and identify the same as the equipment subject to this indenture. The Railway Company at all times will keep and maintain all the cars, locomotives and tenders now or at any time hereafter covered by this indenture, in good order and condition, reasonable wear and tear excepted, and at all times will maintain such distinctive mark thereon; and whenever any cars, locomotives or tenders, now or at any time hereafter covered by this indenture, shall be worn out or be destroyed the Railway Company promptly shall cause the same to

be replaced by other cars, locomotives or tenders of at least equal value, upon which such distinctive mark shall be placed, so that at all times this indenture shall be a first lien upon cars, locomotives and tenders of a value and capacity at least equal to the value and capacity of the cars, locomotives and tenders heretofore owned by said St. Paul and Duluth Railroad Company, and by it sold and conveyed to the Railway Company; and the Railway Company at all times will set apart, use and apply for that purpose so much of the net earnings of the mortgaged premises as may be required for such maintenance and replacement of the equipment subject to the lien hereof.

The Railway Company at all times will keep on its books a separate list of such cars, locomotives and tenders covered by this indenture, to be called "St. Paul-Duluth Division Equipment," and it will promptly after the execution of this indenture furnish to the Trustee a complete list of all such cars, locomotives and tenders, and thereafter, from time to time, and at least once in each year, it will furnish to the Trustee a corrected list thereof, so as to enable the Trustee at all times to identify the cars, locomotives and tenders covered by this indenture.

SEC. 8. The Railway Company covenants that it has good title to the railroad and branches and other property hereby mortgaged and conveyed, or purporting so to be; that it has full power to sell and convey the same, and that the same are free and clear from all liens and incumbrances having priority or which might become entitled to priority to this indenture, except the mortgages and liens hereinbefore set forth securing the said underlying bonds; and that it will warrant and defend the title, lien and interest of the Trustee in and to the said railroad and branches and other property against the claims of all and every person or persons claiming or to claim the same.

ARTICLE THREE.

SEC. 1. Neither any coupon belonging to any bond hereby secured, nor any claim for interest on any registered bond which in any way, on or after maturity, shall have been transferred or pledged, separate and apart from the bond to which it relates, shall, unless accompanied by such bond, be entitled, in case of a default hereunder, to any benefit of or from this indenture, except after the prior payment in full of the principal of all bonds issued hereunder, and of all coupons and interest obligations not so transferred or pledged.

SEC. 2. In case (1) default shall be made in the payment of any interest on any bond at any time issued under and secured by this indenture, or on any of the hereinbefore mentioned underlying bonds (except bonds held by the Trustee hereunder), and any such default shall continue for a period of six months; or in case (2) default shall be made in the due and punctual payment of the principal of any bond secured hereby, or of any of said underlying bonds (except bonds held by the Trustee hereunder); or in case (3) the Railway Company shall make default in the due observance and performance of any other covenant and condition herein contained, and any such last-mentioned default shall continue for a period of six months after written notice thereof from the Trustee or from the holders of five per cent. in amount of the bonds hereby secured; then and in each and every case of default continuing as aforesaid, the Trustee personally, or by its agent or agents, attorney or attorneys, may enter into or upon all or any part of the mortgaged property and exclude the Railway Company wholly therefrom, and, having and holding the same, may use, operate, manage and control the said property, regulate tolls for the transportation of passengers and freight thereon,

and conduct the business thereof, either personally or by its agents, to the best advantage of the holders of the bonds hereby secured in accordance with law; and upon every such entry the Trustee, at the expense of the trust estate, may maintain, restore, renew, replace and keep insured the said mortgaged property, to the same extent as is usual with railway companies, and likewise from time to time, at the expense of the trust estate, may make all necessary or proper repairs, renewals, replacements, alterations, additions, betterments and improvements thereto and thereon as to it may seem judicious; and the Trustee in such case shall have the right to manage the mortgaged premises as aforesaid and exercise all the rights and powers of the Railway Company, either in the name of the Railway Company or otherwise, as the Trustee may deem best, and it shall be entitled to collect and receive all the tolls, freights, income, rents, issues and profits of the property, and every part thereof, and after deducting the expense of operating said railways and other premises and of conducting the business thereof and of all repairs, maintenance, renewals, replacements, alterations, additions, betterments and improvements and of all payments which may have been made for taxes, assessments, insurance, and for prior or other charges upon said railways and premises or any part thereof, as well as just and reasonable compensation for its own services and the services of all its agents and attorneys, it shall apply the moneys arising aforesaid as follows:

In case the principal of the bonds hereby secured shall not have become due, to the payment of the interest remaining in default, in the order of the maturity of the installments of such interest, with interest thereon at the rate of four per cent. per annum; such payments to be made ratably to those entitled to such interest without discrimination or preference;

In case the principal of the bonds hereby secured shall have become due by declaration or otherwise, first, to the payment of the accrued interest, with interest on the overdue installments of interest, in the order of the maturity of such installments, and next to the payment of the principal of all bonds hereby secured; in every instance such payments to be made ratably to those entitled thereto, without any discrimination or preference.

These provisions, however, are subject to the provisions of Section 1 of this Article.

In case there shall be any continuing default as aforesaid, the Trustee shall be entitled to vote upon all said shares of The Duluth Union Depot and Transfer Company and to receive and collect all dividends upon said shares; but unless and until there shall be some continuing default as aforesaid the Railway Company shall have the right to vote upon all said shares of the capital stock of The Duluth Union Depot and Transfer Company for all purposes not inconsistent with the provisions or purposes of this indenture, and the Railway Company shall be entitled to receive all dividends on such shares, with the same force and effect as though such shares were not subject to this indenture, although such shares shall have been transferred to the Trustee; and from time to time, upon demand of the Railway Company, the Trustee shall execute and deliver to the Railway Company or its nominees suitable powers of attorney or proxies to vote upon any of said shares which shall have been transferred to the Trustee and suitable orders for any dividends payable thereon.

SEC. 3. In case default shall be made by the Railway Company in the payment of any interest on any bond hereby secured, and such default shall continue for a period

of six months, then and in every case of such continuing default, upon the written request of the holders of a majority in amount of the bonds hereby secured then outstanding, the Trustee, by notice in writing delivered to the Railway Company, shall declare the principal of all bonds hereby secured then outstanding to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in this indenture or in said bonds contained to the contrary thereof in anywise notwithstanding. This provision is, however, subject to the condition, that if at any time after the principal of said bonds shall have been so declared due and payable, all arrears of interest upon all such bonds, with interest at the rate of four per cent. per annum on overdue installments of interest, shall either be paid by the Railway Company or be collected out of the mortgaged premises before any sale of the mortgaged premises shall have been made, then and in every such case the holders of a majority in amount of the bonds hereby secured then outstanding, by written notice to the Railway Company and to the Trustee, may rescind such declaration and waive such default and its consequences; but no such rescission or waiver shall extend to, or affect any subsequent default, or impair any right consequent thereon.

In case the Trustee shall have proceeded to enforce any right under this indenture by foreclosure, entry or otherwise, and such proceeding shall have been discontinued or abandoned because of such waiver, or for any other lawful reason, or shall have been determined adversely to the Trustee, then and in every such case the Railway Company and the Trustee shall be restored to their former positions and rights hereunder in respect of the mortgaged property, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

SEC. 4. In case (1) default shall be made in the payment of any interest on any bond at any time issued under and secured by this indenture or on any of the hereinbefore mentioned underlying bonds (except bonds held by the Trustee hereunder), and any such default shall continue for a period of six months; or in case (2) default shall be made in the due and punctual payment of the principal of any bond secured hereby or of any of said underlying bonds (except bonds held by the Trustee hereunder); or in case (3) the Railway Company shall make default in the due observance and performance of any other covenant or condition herein contained and any such last mentioned default shall continue for a period of six months after written notice thereof from the Trustee or from the holders of five per cent. in amount of the bonds hereby secured; then, and in each and every such case of default, continuing as aforesaid, the Trustee, with or without entry, personally or by attorney, in its discretion (a) may sell at public auction, to the highest and best bidder, all and singular the mortgaged property, and the right of redemption thereof, in one lot as an entirety, unless a sale in parcels shall be required under the provisions of Section 6 of this Article, in which case such sale may be made in parcels as in said Section provided; which sale or sales shall be made at such time and at such place and upon such terms as the Trustee may fix and briefly specify in the notice of sale, but the sale shall take place in either Minnesota or Wisconsin, at some station on the line of the mortgaged railway; or (b) may proceed to protect and enforce the rights of the bondholders under this indenture by suit or suits in equity or at law, as the Trustee may be advised.

Upon written request of the holders of twenty-five per cent. in amount of the bonds hereby secured, in case of any such default, continuing as aforesaid, it shall be the duty of the Trustee, upon being indemnified as hereinafter provided,

to take all needful steps for the protection and enforcement of its rights and the rights of the bondholders, and to exercise the powers of entry and sale herein conferred, or both, or to take appropriate judicial proceedings by action, suit or otherwise, as the Trustee being advised by counsel learned in the law shall deem most expedient in the interest of the holders of the bonds hereby secured.

SEC. 5. Anything in this indenture contained to the contrary notwithstanding, the holders of seventy-five per cent. in amount of the bonds hereby secured and then outstanding, in case of any subsisting default, from time to time, shall have the right to direct and control the method and place of conducting any and all proceedings for any sale of the premises hereby conveyed and mortgaged, or agreed or intended so to be, or for the foreclosure of this indenture, or for the appointment of a Receiver, or any other proceedings hereunder.

SEC. 6. In the event of any sale, whether made under the power of sale hereby granted and conferred, or under or by virtue of judicial proceedings, or of some judgment or decree of foreclosure and sale, the whole of the property covered by this indenture shall be sold in one parcel and as an entirety, unless the holders of a majority in amount of the bonds hereby secured then outstanding shall in writing request the Trustee to cause said premises to be sold in parcels, in which case the sale shall be made in such parcels as may be specified in such request or petition, or unless such sale as an entirety is impracticable by reason of some statute or other cause; and this provision shall bind the parties hereto and each and every of the holders of the bonds and coupons hereby secured or intended so to be.

SEC. 7. Notice of any such sale pursuant to any provision of this indenture shall state the time and place of sale, and

shall contain a brief general description of the property to be sold, and shall be sufficiently given if published once in each week for four successive weeks prior to said sale in a newspaper published in New York, N. Y., in a newspaper published in St. Paul, Minnesota, and a newspaper published in Superior, Wisconsin.

SEC. 8. Upon the completion of any sale or sales under this indenture, the Trustee shall make, execute and deliver to the accepted purchaser or purchasers a good and sufficient deed, or good and sufficient deeds, of conveyance, of the property and franchises sold. And the Trustee and its successors are hereby appointed the true and lawful attorney or attorneys irrevocable of the Railway Company in its name and stead to make all necessary deeds and conveyances of property, and for that purpose it and they may execute all necessary acts of assignment and transfer, and may substitute one or more persons with like power, the Railway Company hereby ratifying and confirming all that its said attorney or attorneys, or such substitute or substitutes, shall lawfully do by virtue hereof.

Any such sale or sales made under or by virtue of this indenture, whether under the power of sale hereby granted and conferred, or under or by virtue of judicial proceedings, shall operate to divest all right, title, interest, claim and demand whatsoever, either at law or in equity, of the Railway Company of, in and to the premises sold, and shall be a perpetual bar both at law and in equity against the Railway Company, its successors and assigns, and against any and all persons claiming or to claim the premises sold, or any part or parcel thereof, by, from, through or under the Railway Company, its successors and assigns, or any of them.

The railway equipment, tools, implements and other movables conveyed, or intended to be conveyed by or pursuant to this indenture, shall be deemed real estate for all the

purposes of this indenture, and shall be held and taken to be fixtures and appurtenances of the said railroad and branches and part thereof, and are to be used and sold therewith and not separate therefrom, except as herein otherwise provided.

SEC. 9. The Trustee, from time to time, may adjourn any sale to be made by it under the provisions of this indenture, by announcement at the time and place appointed for such sale, or for such adjourned sale or sales; and, without further notice or publication, it may make such sale at the time and place to which the same shall be so adjourned.

SEC. 10. The receipt of the Trustee shall be a sufficient discharge to the purchaser or purchasers of the property sold as aforesaid, for the purchase money, and no such purchaser or purchasers, or his, their or its representatives, vendees, grantees or assigns, after paying such purchase money and receiving such receipt, shall be bound to see to the application of such purchase money, upon or for, any trust or purpose of this indenture, or in any manner whatsoever be answerable for any loss, misapplication or non-application of any such purchase money, or any part thereof, or be bound to inquire as to the authorization, necessity, expediency or regularity of any such sale.

SEC. 11. In case of any such sale, whether under the power of sale hereby granted, or pursuant to judicial proceedings, the whole of the principal sum of the bonds hereby secured, if not previously declared due, shall at once become due and payable, anything in said bonds or in this indenture to the contrary notwithstanding.

SEC. 12. The proceeds or avails of any such sale, whether under the power of sale hereby granted or pursuant to judicial proceedings, and the purchase money paid thereon, together with any sums which may be held by the Trustee

under any of the provisions of this indenture, at the time of, or after, such sale, as part of the trust estate or the proceeds thereof shall be applied as follows :

FIRST. To the payment of the costs and expenses of such sale, including a reasonable compensation to the Trustee, its agents, attorneys and counsel, and of all expenses, liabilities and advances made and incurred by the Trustee in managing and maintaining the property hereby conveyed or so intended to be, and of all taxes, assessments or liens prior to the lien of these presents, except any taxes, assessments or other superior liens to which such sales shall have been made subject.

SECOND. To the payment of the whole amount then owing or unpaid upon the bonds hereby secured for principal and interest, with interest on the overdue installments of interest, and in case such proceeds shall be insufficient to pay in full the whole amount so due and unpaid upon the said bonds, then to the payment of such principal and interest, without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, ratably, to the aggregate of such principal and the accrued and unpaid interest ; subject, however, to the provisions of Section 1 of this Article.

THIRD. To the payment of the surplus, if any, to the Railway Company, its successors or assigns, or to whomsoever may be lawfully entitled to receive the same.

SEC. 13. The Railway Company covenants that in case (1) default shall be made in the payment of any interest on any bond at any time outstanding and secured by this in-

denture, or in case (2) default shall be made in the payment of the principal of any such bond when the same shall become payable, whether at the maturity of said bonds or by declaration as authorized by this indenture, or by a sale of the mortgaged premises as hereinbefore provided, then, upon demand of the Trustee, the Railway Company will pay to the Trustee for the benefit of the holders of the bonds and coupons hereby secured then outstanding the whole amount then due and payable on all the bonds and coupons hereby secured then outstanding, for interest or principal or both as the case may be, with interest upon the overdue principal and installments of interest; and in case the Railway Company shall fail to pay the same, forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled to recover judgment for the whole amount so due and unpaid.

The Trustee shall be entitled to recover judgment as aforesaid, either before or after, or during the pendency of, any proceedings for the enforcement of the lien of this indenture upon the mortgaged premises, and the right of the Trustee to recover such judgment shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of this indenture or the foreclosure of the lien thereof; and in case of a sale of the mortgaged premises and of the application of the proceeds of sale to the payment of the mortgaged debt, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive all amounts then remaining due and unpaid upon any and all of the bonds issued hereunder and then outstanding, for the benefit of the holders thereof, and shall be entitled to recover judgment for any portion of the mortgage debt remaining unpaid, with interest. No recovery of any such judgment by the Trustee and no levy of any execution upon any such judgment upon property subject to

the lien of this indenture, or upon any other property, shall in any manner, or to any extent, affect the lien of this indenture upon the mortgaged premises or any part thereof, or any rights, powers or remedies of the Trustee hereunder, or any lien, rights, powers, or remedies of the holders of the bonds hereby secured, but such lien, rights, powers and remedies of the Trustee and of the bondholders shall continue unimpaired as before.

Any moneys thus collected by the Trustee under this Section shall be applied by the Trustee towards payment of the amounts then due and payable upon such bonds and coupons, respectively, ratably and without any preference or priority of any kind, upon presentation of the respective bonds and coupons and stamping such payment thereon, if partly paid, or upon cancellation thereof, if paid in full.

SEC. 14. The Railway Company will not at any time insist upon or plead, or in any manner whatever claim, or take the benefit or advantage of, any stay or extension law now or at any time hereafter in force in any locality where the mortgaged property, or any part thereof, may or shall be situate, nor will it claim, take or insist on, any benefit or advantage from any law now or hereafter in force, providing for the valuation, or appraisement, of the mortgaged property, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained, or to the decree of any court of competent jurisdiction; nor after any such sale or sales will it claim or exercise any right under any statute enacted by the Congress of the United States, or by the Legislature of any State, to redeem the property so sold, or any part thereof; and it hereby expressly waives all benefit and advantage of any such law or laws, and it covenants that it will not hinder, delay or impede the execution of any power herein granted and delegated to the Trustee, but that it will

suffer and permit the execution of every such power as though no such law or laws had been made or enacted.

SEC. 15. Upon filing a bill in equity, or upon commencement of any other judicial proceedings to enforce any right of the Trustee or of the bondholders under this indenture, the Trustee shall be entitled to exercise the right of entry herein conferred, and also any and all other rights and powers herein conferred and provided to be exercised by the Trustee upon the occurrence and continuance of default as hereinbefore provided; and, in any case of any default entitling the Trustee to enter as hereinbefore provided, the Trustee, as matter of right, shall be entitled to the appointment of a Receiver of the premises hereby mortgaged, and of the earnings, income, revenue, rents, issues or profits thereof, with such powers as the court making such appointment shall confer.

SEC. 16. The Railway Company, after any default hereunder, may waive any period of grace herein reserved, or any condition precedent to the right of the Trustee to enforce its lien and security under this indenture by reason of such default; and at any time hereafter before full payment of the bonds secured hereby, and whenever it shall deem expedient for the better security of such bonds, although there be then no default entitling the Trustee to enter into possession, the Railway Company, with the consent of the Trustee, may surrender and deliver to the Trustee full possession of the whole or any part of the property, premises and interests hereby conveyed, or intended so to be, for any period fixed or indefinite. Upon such surrender and delivery to the Trustee, with its consent, the Trustee shall enter into and upon the premises so surrendered and delivered, and shall take and receive possession thereof, for such period, fixed or indefinite, as aforesaid, without prejudice, however, to its

right at any time subsequently, when entitled thereto by any provision hereof, to insist upon and to maintain such possession, though beyond the expiration of any prescribed period. Upon any such voluntary surrender and delivery of said property and premises, or of any part thereof, the Trustee, from the time of its entry, shall work, maintain, use, manage, control and employ the same in accordance with the provisions of this indenture, and shall receive and apply the income and revenues thereof as hereinbefore provided. Upon application of the Trustee, and with consent of the Railway Company if there be then no subsisting default hereunder, and without such consent if there shall then be a subsisting default entitling the Trustee to enter as hereinbefore provided, a receiver may be appointed to take possession of, and to operate, maintain and manage the whole or any part of said property wheresoever the same may be situated, with all the rights, powers and duties by this Section conferred upon the Trustee, and the Railway Company shall transfer and deliver to such receiver all such property in its possession wheresoever the same may be situated.

SEC. 17. No holder of any bond or coupon hereby secured shall have any right to institute any suit, action or proceeding in equity or at law for the foreclosure of this indenture or for the execution of any trust thereof, or for the appointment of a Receiver, or for any other remedy hereunder, unless such holder shall previously have given to the Trustee written notice of such default and of the continuance thereof as hereinbefore provided, nor unless, also, the holders of twenty-five per cent. in amount of the bonds hereby secured and then outstanding shall have made written request upon the Trustee, and shall have afforded to it reasonable opportunity either itself to proceed to exercise the powers hereinbefore

granted, or to institute such action, suit or proceeding in its own name, nor unless, also, they shall have offered to the Trustee adequate security and indemnity against the cost, expenses and liabilities to be incurred therein or thereby; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this indenture and to any action, or cause of action, for foreclosure or for the appointment of a Receiver, or for any other remedy hereunder; it being understood and intended that no one or more holders of bonds and coupons shall have any right in any manner whatever to affect, disturb or prejudice the lien of this indenture by his or their action, or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all holders of such outstanding bonds and coupons.

SEC. 18. Except as herein expressly provided to the contrary, no remedy herein conferred upon or reserved to the Trustee, or upon or to the holders of bonds hereby secured, is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

SEC. 19. Upon any such sale by the Trustee, or pursuant to judicial proceedings, any purchaser, in settlement or payment of the purchase price of the property purchased, shall be entitled to use and apply any bonds, and any matured and unpaid coupons hereby secured, by presenting such bonds and coupons in order that there may be credited thereon the sums applicable to the payment thereof under

Section 12 of this Article, and such purchaser thereupon shall be credited on account of such purchase price payable by him with the sums so applicable to the payment of, and credited on, the bonds and coupons so presented.

At any such sale any bondholders may bid for and purchase such property, and may make payment therefor as aforesaid, and, upon compliance with the terms of sale, may hold, retain and dispose of such property for their own use without further accountability.

SEC. 20. No delay or omission of the Trustee, or of any holder of bonds hereby secured, to exercise any right or power arising from any default continuing as aforesaid shall impair any such right or power, or shall be construed to be a waiver of any such default, or an acquiescence therein.

ARTICLE FOUR.

SEC. 1. Any request or other instrument required by this indenture to be signed or executed by bondholders may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such bondholders in person or by agent appointed in writing. Proof of the execution of any such request or other instrument, or of a writing appointing any such agent, and of the holding by any person of coupon bonds transferable by delivery, shall be sufficient for any purpose of this indenture, and shall be conclusive in favor of the Trustee with regard to due action taken by it under such request or other instrument, if made in the following manner:

The fact and date of the execution by any person of any such request or other instrument or writing may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in New York that the person signing such request or

other instrument acknowledged to him the execution thereof, or by an affidavit of a witness to such execution.

The amount of coupon bonds transferable by delivery, held by any person executing any such request or other instrument as a bondholder, and the amounts and issue numbers of the bonds held by such person, and the date of his holding the same, may be proved by a certificate executed by any trust company, bank, bankers or other depositary (wherever situated), if such certificate shall be deemed by the Trustee to be satisfactory, showing that at the date therein mentioned such person had on deposit with such depositary the bonds described in such certificate. The ownership of registered coupon bonds, or of registered bonds without coupons, shall be proved by the registers of such bonds.

SEC. 2. The Railway Company and the Trustee may deem and treat the bearer of any coupon bond hereby secured, which shall not at the time be registered as hereinbefore authorized, and the bearer of any coupon for interest on any such bond, whether such bond shall be registered or not, as the absolute owner of such bond or coupon, as the case may be, for the purpose of receiving payment thereof, and for all other purposes; and neither the Railway Company nor the Trustee shall be affected by any notice to the contrary.

The Railway Company and the Trustee may deem and treat the person in whose name any registered bond without coupons issued hereunder shall be registered upon the books of the Railway Company, as hereinbefore provided, as the absolute owner of such bond for the purpose of receiving payment of or on account of the principal and interest of such bond and for all other purposes, and may deem and treat the person in whose name any coupon bond shall be so registered as the absolute owner thereof for the purpose of receiving payment of or on account of the principal thereof, and for all other purposes, except to receive pay-

ment of interest represented by outstanding coupons, and all such payments so made to any such registered holder for the time being, or upon his order, shall be valid and effectual to satisfy and discharge the liability upon such bond to the extent of the sum or sums so paid.

ARTICLE FIVE.

Upon the written request of the Railway Company, approved by resolution of its Board of Directors, or Executive Committee, the Trustee, from time to time while the Railway Company is in possession of the mortgaged premises, but subject to the conditions and limitations in this Section prescribed and not otherwise, shall release from the lien and operation of this mortgage any part of the mortgaged premises; *provided* (1) that no part of the lines of track or of the right of way required in the operation of the mortgaged railways shall be released unless the Railway Company shall have ceased to use the same in the operation of its lines of railway, and no part of such railway shall be released if thereby the continuity of the lines of railway mortgaged herein shall be broken; and (2) that no part of the mortgaged premises appurtenant or incidental to the maintenance or operation of any part of the lines of railway subject to the lien of this mortgage shall be released, unless at the time of such release the same shall no longer be requisite for any purpose for which it shall have been acquired or used, and shall no longer be necessary or expedient to be retained in connection with such lines of railway, or in the business of the Railway Company.

No such release shall be made unless the Railway Company shall have sold, or shall have contracted to exchange for other property, or to sell, the property so to be released; and, unless some other disposition thereof be required by some prior mortgage, the proceeds of any and all such sales,

and all moneys received as compensation for any of the mortgaged property taken by exercise of the power of eminent domain, shall be set apart as the Trustee may direct, and shall be applied by the Railway Company, with the approval of the Trustee, in the construction or acquisition of betterments or improvements of any part of the mortgaged premises, or in the purchase of other property, which shall be conveyed by the Railway Company to the Trustee upon the trusts hereby declared. Any new property acquired by the Railway Company to take the place of any property released hereunder, shall *ipso facto* become and be subject to this mortgage, but if requested by the Trustee, the Railway Company will convey the same by appropriate instruments upon the trusts of this indenture.

Said shares of the capital stock of The Duluth Union Depot and Transfer Company may be sold or otherwise disposed of by the Railway Company and may be released by the Trustee from the lien and operation of this indenture upon such written request of the Railway Company approved by resolution of its board of directors or executive committee, but only provided that before such release shall be made the value of such stock shall be appraised by an appraiser satisfactory to the Trustee and that the entire proceeds of the sale or other disposition of such stock, not less than such appraised value thereof, shall be set apart and be applied by the Railway Company, with the approval of the Trustee, in the acquisition of additional property for use in connection with the mortgaged premises, which additional property shall become subject to the lien of this indenture and shall be vested in the Trustee upon the trusts hereby declared.

The Railway Company, from time to time, while in possession of the mortgaged premises, shall also have full power in its discretion to dispose of any portion of the ma-

chinery, equipment and implements at any time covered by this mortgage, which may have become unfit for its use, or which it may be advisable to dispose of, replacing the same by new machinery, equipment or implements, which shall become subject to the operation of this indenture.

In no event shall any purchaser or purchasers of any property sold or disposed of under any provision of this Article be required to see to the application of the purchase money.

The Railway Company, from time to time, may make changes or alterations in, or substitutions of, or may terminate, any leases, trackage rights or contracts which are covered by this indenture; but in any such event any modified, altered or substituted leases, contracts or trackage rights forthwith shall become bound by and be subject to the terms of this indenture, in the same manner as those previously existing.

In case the mortgaged premises shall be in the possession of a Receiver lawfully appointed, the powers in and by this Section conferred upon the Railway Company may be exercised by such Receiver with the approval of the Trustee, and if the Trustee shall be in possession of the mortgaged premises under any provision of this indenture, then all the powers by this Section conferred upon the Railway Company may be exercised by the Trustee in its discretion.

A certificate signed by (1) the President, or a Vice-President, and (2) the Chief Engineer or General Manager of the Railway Company may be received by the Trustee as conclusive evidence of any of the facts mentioned in this Section, and shall be full warrant to the Trustee for its action on the faith thereof, but the Trustee in its discretion may require such further and additional evidence as to it may seem reasonable.

ARTICLE SIX.

SEC. 1. The Trustee shall not be answerable for the default or misconduct of any agent or attorney appointed by it in pursuance hereof, if such agent or attorney shall have been selected with reasonable care; or for anything whatever, in connection with this trust, except willful misconduct or gross negligence. The Trustee shall not be personally liable for any debts contracted by it or for damages to persons or property carried or injured, or for salaries or non-fulfilment of contracts, during any period wherein the Trustee shall manage the trust property or premises upon entry or voluntary surrender as aforesaid. The Trustee shall not be under any obligation to take any action towards the execution or enforcement of the trust hereby created, which, in its opinion, shall be likely to involve it in expense or liability, unless one or more of the holders of the bonds hereby secured shall, as often as required by the Trustee, furnish it reasonable indemnity against expense or liability; nor shall the Trustee be required to take notice of any default hereunder unless notified in writing of such default by the holders of at least five per cent. of the bonds hereby secured then outstanding, or to take any action in respect of any default unless requested in writing to take action in respect thereof by the holders of not less than twenty-five per cent. of the bonds hereby secured then outstanding, and tendered reasonable indemnity as aforesaid, anything herein contained to the contrary notwithstanding; but neither any such notice or request, nor this provision therefor, shall affect any discretion herein given to the Trustee to determine whether or not it shall take action in respect of such default, or to take action without such request. The Trustee shall not be responsible for the recording of this indenture or for the filing of the same as a chattel mortgage.

The Trustee shall be entitled to reasonable compensation for all services rendered by it in the execution of the trusts hereby created.

SEC. 2. The Trustee, or any trustee hereafter appointed, may resign and be discharged of the trusts created by this indenture by giving notice thereof to the Railway Company and to the bondholders, by publication, at least twice a week, for four successive weeks, in one newspaper at that time published in New York, N. Y. one newspaper published in London, England, and one newspaper published in Berlin, Germany.

The Trustee may be removed at any time by an instrument in writing under the hands of three-quarters in amount of the holders of the bonds secured hereby and then outstanding.

SEC. 3. In case at any time the said Trustee, or any trustee hereafter appointed, shall resign or be removed or otherwise become incapable of acting, a successor, or successors, may be appointed by the holders of a majority in amount of the bonds hereby secured and then outstanding, by an instrument or concurrent instruments signed by such bondholders or their attorneys in fact duly authorized; provided, nevertheless, and it is hereby agreed and declared that, in case at any time there shall be a vacancy in the office of trustee hereunder, the Railway Company, by an instrument executed by order of its board of directors, may appoint a trustee to fill such vacancy until a new trustee shall be appointed by the bondholders or as hereinafter authorized. The Railway Company shall thereupon publish notice of such appointment once a week for six successive weeks in a newspaper published in New York, N. Y., a newspaper published in London, England, and a newspaper published in Berlin, Germany; but any new trustee so appointed by the Railway Company shall immediately

and without further act be superseded by a trustee appointed in the manner above provided by the bondholders prior to the expiration of six months after such publication of notice. In case no such appointment shall be made by the bondholders prior to the expiration of such six months, a new trustee, to supersede the trustee appointed by the Railway Company, may nevertheless be appointed by any judge of the United States Circuit Court for the Eighth Circuit or by any court of competent jurisdiction in the premises upon the application of the holders of one-quarter in amount of the bonds issued hereunder then outstanding. Every such trustee appointed in place of the Guaranty Trust Company of New York, or its successor in the trust, shall always be a trust company in good standing, doing business in the City of New York, and having a capital and surplus aggregating at least \$2,000,000, if there be such a trust company willing and able to accept the trust upon reasonable or customary terms.

Any new trustee appointed hereunder shall execute, acknowledge and deliver to the trustee last in office and also to the Railway Company an instrument accepting such appointment hereunder, and thereupon such new trustee shall become vested with all the estates, properties, rights, powers and trusts of its or his predecessor in the trust hereunder with like effect as if originally named as trustee herein without any further act, deed or conveyance; but the trustee ceasing to act shall, nevertheless, on the written request of the new trustee, execute and deliver an instrument transferring to such new trustee, upon the trusts herein expressed, all the estates, properties, rights, powers and trusts of the trustee so resigning or removed, and shall duly assign, transfer and deliver any stocks, bonds or other property and moneys held by such trustee to the new trustee so appointed in its or his place.

Should any deed, conveyance or instrument in writing, from the Railway Company be required by any new trustee, for more fully and certainly vesting in and confirming to such new trustee such estates, rights, powers and trusts, any and all such deeds, conveyances and instruments in writing shall, on request, be made, executed, acknowledged and delivered by the Railway Company.

SEC. 4. If at any time or times, in order to conform to any law of any State in which the Railway Company now holds or at any time hereafter shall hold any property subject to the lien hereof, the Railway Company shall so request, the Trustee shall unite with the Railway Company in the execution, delivery and performance of all instruments and agreements necessary or proper to constitute an additional trustee or trustees, to be vested jointly with the trustee originally named herein or its successor, with any and all estates, rights, powers and duties originally vested in the Trustee hereunder; provided, however, (1) that the bonds secured hereby shall be certified and delivered, and all powers conferred upon the Trustee under Article One hereof shall be exercised only by the Guaranty Trust Company of New York, party of the second part, or a trust company appointed and acting as its successor in the trust hereunder; (2) that no powers shall be exercised hereunder by such additional trustee, except jointly with, or with the consent of the Guaranty Trust Company of New York, or any trust company which may have been appointed and be acting as its successor in the trust, and (3) that any co-trustee so appointed may be removed at any time by an instrument executed jointly by the Railway Company and the Guaranty Trust Company of New York, or a trust company appointed and acting as its successor in the trust hereunder.

It is further understood and agreed that, notwithstanding the appointment of such additional trustee, so far as the same

legally can be done, each and every power vested in the Trustee shall be vested in and exercised by the Guaranty Trust Company of New York and any trust company which may have been appointed and be acting as its successor in the trust hereby created, without the joint action of such additional trustee, and that any notice, request or other writing by or in behalf of the bondholders delivered solely to the Guaranty Trust Company of New York, or its successor in the trust, shall be deemed delivered to any and all the trustees hereunder as effectually as if delivered to each of them.

ARTICLE SEVEN.

No recourse under any obligation, covenant or agreement of this indenture, or of any bond or coupon hereby secured, shall be had against any stockholder, officer or director of the Railway Company, or of any successor corporation, either directly or through the Railway Company, by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise; it being expressly agreed and understood that this mortgage and the obligations hereby secured are solely corporate obligations, and that no personal liability whatever shall attach to or be incurred by the stockholders, officers or directors of the Railway Company, or of any successor corporation under or by reason of any of the obligations, covenants or agreements in this indenture, or in any of the bonds or coupons hereby secured, expressed and contained or implied therefrom, and that any and all personal liability of every name and nature, either at common law or in equity or by statute, of every such stockholder, officer or director, is hereby expressly waived as a condition of and consideration for, the execution and issue of this mortgage and such bonds and coupons.

ARTICLE EIGHT.

SEC. 1. Until some default shall have been made in the due and punctual payment of the interest or of the principal of the bonds hereby secured, or of some part of such interest or principal, or in the due and punctual performance and observance of some covenant or condition hereof obligatory upon the Railway Company, and until such default shall have continued beyond the period of grace, if any, herein provided in respect thereof, or until the Railway Company voluntarily shall have surrendered possession to the Trustee as herein permitted, the Railway Company, its successors and assigns, shall be suffered and permitted to retain actual possession of all the premises hereby mortgaged and the same and every part thereof, with the rights and franchises appertaining thereto, and the tolls, income, rents, issues and profit thereof to manage, operate, collect, receive, use and enjoy in any manner not inconsistent with the provisions hereof.

SEC. 2. If, when the bonds hereby secured shall have become due and payable, the Railway Company shall well and truly pay, or cause to be paid, the whole amount of the principal moneys and interest due upon all of the bonds and coupons for interest thereon hereby secured, then outstanding, or shall provide for such payment by depositing with the Trustee hereunder for the payment of such bonds and coupons the entire amount due thereon for principal and interest, and shall also pay, or cause to be paid, all other sums payable hereunder by the Railway Company, and shall well and truly perform all the things herein required to be performed by it, according to the true intent and meaning of this indenture, then and in that case all property, rights and interest hereby conveyed shall revert to the Railway Company, and the estate, right, title and interest of the

Trustee shall thereupon cease, determine and become void, and the Trustee in such case, on demand of the Railway Company, and at its cost and expense, shall enter satisfaction of this indenture upon the records; otherwise, the same shall be, continue and remain in full force and virtue.

ARTICLE NINE.

SEC. 1. All the covenants, stipulations, promises and agreements in this indenture contained, by or in behalf of the Railway Company, shall bind its successors and assigns, whether so expressed or not.

SEC. 2. Nothing contained in this indenture, or in any bond hereby secured, shall prevent any lawful consolidation or merger of the Railway Company with any other corporation, or any conveyance and transfer, subject to the continuing lien of this indenture and to all the provisions thereof, of all the mortgaged premises as an entirety to a railroad corporation at that time existing under and by virtue of the laws of the United States or of any State thereof, and lawfully entitled to acquire the same; provided, however, that such consolidation, merger or sale shall not impair the lien and security of this indenture, or any of the rights or powers of the Trustee, or of the bondholders hereunder, and that, upon any such consolidation, merger or sale, the due and punctual payment of the principal and interest of all of said bonds according to their tenor, and the due and punctual performance and observance of all the covenants and conditions of this indenture, shall be assumed by the corporation formed by such consolidation or merger or purchasing as aforesaid.

SEC. 3. In case the Railway Company, pursuant to Section 2 of this Article, shall be consolidated or merged with any other corporation, or shall sell, convey and

transfer, subject to this indenture, all the mortgaged premises as an entirety as aforesaid, the successor corporation formed by such consolidation or into which the Railway Company shall have been merged, or which shall have purchased and received a conveyance and transfer as aforesaid, upon executing and causing to be recorded an indenture with the Trustee, satisfactory to the Trustee, whereby such successor corporation shall assume the due and punctual payment of the principal and interest of said bonds and the performance of all the covenants and conditions of this indenture, shall succeed to, and be substituted for, the Railway Company, party of the first part hereto, with the same effect as if it had been named herein as such party of the first part, and such successor corporation thereupon may cause to be signed and may issue, either in its own name or in the name of the Railway Company, any or all of such bonds which shall not theretofore have been signed by the Railway Company and delivered to the Trustee, and, upon the order of said successor corporation and subject to all the terms, conditions and restrictions herein prescribed, the Trustee shall certify and deliver any of such bonds which shall have been previously signed and delivered by the officers of the Railway Company to the Trustee for certification, and any of such bonds which such successor corporation shall thereafter cause to be signed and delivered to the Trustee for that purpose. All the bonds so issued shall in all respects have the same legal rank and security as the bonds theretofore or thereafter issued in accordance with the terms of this indenture, as though all of said bonds had been issued at the date of the execution hereof.

SEC. 4. For every purpose of this indenture, including the execution, issue and use of any and all bonds hereby secured, the terms "Railway Company" and Northern Pacific Railway Company" include and mean

not only the party of the first part hereto, but also any such successor corporation formed under the laws of the United States or of any State or States thereof. Every such successor railroad corporation shall possess and from time to time may exercise each and every right and power hereunder of the Northern Pacific Railway Company, in its name or otherwise.

SEC. 5. Any act or proceeding by any term of this indenture or of any bond or resolution herein recited, required or provided to be done or performed by any board or officer of the Railway Company, shall and may, in the event of any change in its existence, be done and performed with like force and effect by the like board or officer of any railroad corporation that shall at any time be lawful sole successor of the Railway Company.

SEC. 6. Nevertheless, before the exercise of the powers conferred by this Article, the Railway Company, by instrument in writing executed by authority of two-thirds of its board of directors and delivered to the Trustee, may surrender any of the powers reserved to the Railway Company or to such successor corporation under this Article and thereupon such power so surrendered shall terminate.

ARTICLE TEN.

The Guaranty Trust Company of New York, party hereto of the second part, hereby accepts the trusts in this indenture declared and provided, and agrees to perform the same upon the terms and conditions hereinbefore set forth.

The words "the Trustee," or "said Trustee," or any other equivalent term, as used in this indenture (except when otherwise clearly indicated), shall be held and construed to mean the Trustee, or Trustees, for the time being,

whether original or successor, and the words "Trustee," "bond," "bondholder" and "holder" shall include the plural as well as the singular number, and the term "majority" shall signify "majority in amount," whether or not so expressed.

In order to facilitate the recording of this indenture, the same may be simultaneously executed in several uniform originals, each of which shall constitute a complete instrument, and all together constitute but one and the same instrument.

In witness whereof, the Northern Pacific Railway Company, the party hereto of the first part, has caused this indenture to be signed and acknowledged or proved by its President, and its corporate seal to be hereunto affixed, and the same to be attested by the signature of its Secretary; and the Guaranty Trust Company of New York, the party of the second part, has caused its corporate seal to be hereunto affixed and attested by its Secretary, and these presents to be signed and acknowledged or proved by its President the day and year first above written.

NORTHERN PACIFIC RAILWAY COMPANY,

By

C. S. MELLER

President.

Seal of Northern
Pacific Ry. Co.

Attest:

GEO. H. EARL

Secretary.

GUARANTY TRUST COMPANY OF NEW YORK,

By

W. G. OAKMAN

President.

Seal of Guaranty
Trust Co. of N. Y.

Attest:

H. A. MURRAY

Secretary & Treasurer.

Signed, sealed and delivered
on behalf of the Northern
Pacific Railway Company
in the presence of

EDWARD A. GAY.

A. H. KENT.

Signed, sealed and delivered
on behalf of the Guaranty
Trust Company of New
York in the presence of

N. D. PUTNAM, JR.

H. J. WARD.

[\$4,607.75 of Internal Revenue Stamps were affixed and cancelled
immediately upon the execution of the mortgage.]

STATE OF NEW YORK, }
 County of New York, } ss. :

On this 15th day of June, 1900, before me personally appeared CHARLES S. MELLEN and GEORGE H. EARL, to me personally known, who, being by me duly sworn, did say that said Charles S. Mellen is the President and said George H. Earl is the Secretary of the Northern Pacific Railway Company, the corporation described in and which executed the foregoing instrument; that they know the corporate seal of said corporation, and that the seal affixed to said instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors; and said Charles S. Mellen and said George H. Earl severally acknowledged said instrument to be the free act and deed of said corporation.

GEO. A. BREWSTER,
 Notary Public for the County of New
 York, State of New York.

[Notarial Seal.]

STATE OF NEW YORK, }
 County of New York, } ss. :

On this 15 day of June, 1900, before me personally appeared WALTER G. OAKMAN, to me personally known, who, being by me duly sworn, did say that the said Walter G. Oakman is the President, and the said H. A. Murray is the Secretary & Treasurer of the Guaranty Trust Company of New York, the corporation described in and which executed the foregoing instrument; that they know the corporate seal of said corporation, and that the seal affixed to said instrument is the corporate seal of said corporation, and that the said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Walter G. Oakman and H. A. Murray severally acknowledged said instrument to be the free act and deed of said corporation.

[Notarial Seal.]

F. C. HARRIMAN
 Notary Public
 Westchester County
 Certificate filed in New York Co.